

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Town of Amherst, Sewer Commission, c/o Department of Public Works

Date application filed with the Town Clerk: February 16, 2006

Nature of request: A Special Permit under Sections 3.340.2, 3.373, 3.374 and 3.344 of the Zoning Bylaw to: 1) install cellular and PCS antennas on a 180 foot tall wireless communications tower and store equipment in a Verizon Wireless accessory equipment shelter at the base of the tower, 2) to continue existing uses of removing soil, gravel and other earth products; processing earth products; storage of stumps, construction debris and materials, gravel salt, DPW equipment, Town records, and LSSE/Survival Center trailers, and 3) to add new uses such as renovation of the existing scale house for employees, a larger salt storage area, more trailers for LSSE and Survival Center storage, and a railroad spur off the existing railroad line

Address: 531 Pulpit Hill Road, commonly known as the Ruxton site (Map 5B, Parcel 33, R-O Zoning District)

Legal notice: Published on February 22nd and March 1st, 2006 in the Daily Hampshire Gazette and sent to abutters on February 21, 2006.

Board members: Tom Simpson, Barbara Ford and Hilda Greenbaum

Submissions: The petitioner submitted the following:

- A document briefly summarizing the history of the Ruxton gravel quarry since it was bought by the Town of Amherst in 1995, the Department of Public Works (DPW) reclamation activities to date, and a description of what is proposed for the site, written by Paul Dethier, Engineering Division of the DPW, dated 2/14/06.
- Two maps of the site – the first showing existing conditions with the delineated wetlands, the Conservation parcel (12.30 acres), and the DPW reclamation area (20.93 acres); and the second map dividing the DPW area into two sections – a current storage area/future development parcel (13.54 acres) and a DPW area (7.39 acres), drawn by the Engineering division of the DPW, dated February, 2006
- A Site Analysis and Recommendations prepared by The Conway School of Landscape Design, dated Winter, 1998
- A site plan of the DPW area of the site showing a “conceptual layout plan” of future screenings, security fencing and relocation of the storage trailers (LSSE & Survival Center) behind the screening, dated April, 2006
- A Reclamation Timeline and a price list for screening, dated 4/18/06

Other submissions included:

- A letter from Stephanie Ciccarello, Wetlands Administrator, stating that the proposed location of the cell tower is not within any wetland areas or buffer zones,

- A memo from zoning staff outlining Zoning Bylaw requirements, dated 3/3/06
- A memo from the Planning Board recommending approval of the proposed cell tower and other ongoing/planned DPW activities, with five recommendations, dated 3/17/06.
- A copy of Special Permit FY95-0040 issued to the Town for site reclamation of the Ruxton gravel quarry. The conditions of the Special Permit stated that approval of specific uses shall be presented to the Board prior to any activity on the parcel, and that a reclamation plan shall be developed and presented at a public hearing of the Zoning Board of Appeals

Site Visit: March 7, 2006

The Board met with Town engineers Jason Skeels and Paul Dethier at the site. Verizon Wireless engineer Bob Bennett and attorney James Sheils also were present. The Board observed the following:

- The 32+ acre parcel, formerly a gravel quarry, now owned by the Town of Amherst.
- The rural surroundings, with railroad tracks along the easterly border of the property, three houses and high tension wires/towers to the east of the tracks, Town Conservation land to the west and south (open field, woods and Puffer's Pond) and woods to the north and south
- The gate at the entrance of the site, with a fence that extends a short distance along Pulpit Hill Road on either side of the entrance.
- The paved area near the entrance where Survival Center and Town LSSE trailers are located
- Three buildings – a salt storage shed, a large garage used for DPW equipment and storage of Town documents, and a scale house, proposed for restoration as a DPW employee break-room
- Stakes outlining the 100' x 100' perimeter of the area Verizon Wireless will lease from the Town for a cell tower, located approximately 400 feet from the entrance
- The two delineated wetland areas on the property, one near the storage garage and the LSSE trailers, and the other in the southern section of the DPW reclamation area.
- The piles of loam, chips, concrete and granite stockpiled by the DPW, plus the gravel removal area to the west of the proposed tower

Public Hearing: March 9, 2006, continued to March 28, 2006

Because the Amherst Select Board and Planning Board wanted to review the proposal prior to the Zoning Board of Appeals hearing, both boards requested that the ZBA hearing be continued without testimony from the initial date, March 9th, to allow for their reviews. The ZBA complied with the requests, and continued the hearing to March 28, 2006.

At the March 28th hearing, Paul Dethier of the DPW Engineering Division represented the Town of Amherst. He gave the following information:

- A brief history of the Ruxton site, which is also presented in the DPW submitted document.
- The DPW goal to shift more of its uses to the north-east corner of the site.
- The western and southern portions of the site that are now Town Conservation areas.
- The reclamation that has occurred in the Conservation areas DPW areas.
- The site has been surveyed, and permanent boundary pins have been placed for every change of direction.
- The wetlands were flagged, and the DPW went before the Conservation Commission for a wetland determination hearing. The boundary flags of the two wetlands are good for three years. The 100-foot buffer zones are shown on the submitted plans.
- The list of uses currently on site are: stump storage, construction debris storage (asphalt,

brick, concrete), construction material storage, gravel storage and removal, salt storage, DPW equipment storage, Town record storage, and trailers for LSSE and Survival Center storage.

- The bio-solids (including sludge) composting facility originally proposed for the site was never realized because the Solid Waste Committee determined that it would not be cost-effective for the Town to have such a facility.
- The wood chips currently stored on site are a result of grinding stumps, and will be used.

Ms. Ford asked if the underlying goal of the Town is to use the main DPW area after reclamation for other uses. Mr. Dethier responded that eventually this may be so.

Ms. Greenbaum noted that the trailers and containers for LSSE and the Survival Center are in very poor shape. Mr. Dethier agreed. However, more trailers are requested in this application.

Mr. Dethier listed the proposed additional uses on the site:

1. Storage of up to 5 trailers for LSSE
2. Storage of up to 10 trailers for the Survival Center
3. Adding a railroad spur, as proposed in the Conway School of Design report
4. Reconstructing the existing scale house building as an employee facility, with a bathroom, running water and septic system.
5. Increasing the size of the salt storage area
6. Co-locating on the new Verizon Wireless cell tower

Mr. Simpson asked how far in the future the new activities would be implemented. Mr. Dethier responded with the following:

- He does not know when the increase in the number of trailers would happen.
- The renovation of the scale house may happen quickly
- The salt storage and railroad spur is a future plan of Guilford Mooring, DPW Superintendent. There is no date set for either of these projects, given the economic uncertainty of the Town.
- The co-location of antennas on the Verizon Wireless cell tower should happen within the next year or two.

Ms. Ford noted that there should be fencing around the activities in the north-east corner of the site. As a Town facility, the Town has a responsibility to make the site safer with fencing and to screen the area from view, particularly along Pulpit Hill Road.

The Board made tentative recommendations concerning current and proposed uses on the area:

1. Cleanup and reclamation of the DPW and Conservation areas - the Board supported this activity, with the condition that the upper end of the sluice be blocked at the western edge of the site.
2. Salt storage – any enlargement of the shed or any changes in what is stored shall require a modification of this Special Permit in the future
3. The railroad spur – shall require a modification of this Special Permit
4. Building storage of Town records and DPW equipment - supported, with the condition that all the buildings be painted, with fencing and landscaping around the building and trailer compound.

5. Existing trailers shall be painted and screened from view. Additional trailers should have more discussion prior to Board approval.
6. Restoration of scale house - supported, with the condition that the surrounding brush is kept down, the building painted and fenced.

Vince O'Connor, 179 Summer Street, a member of the Public Works Committee, said that he was concerned about three things:

1. He would like the conservation land in the S-W corner of the site where trucks used to be washed to be further improved (asphalt removed) and brought up to grade, loamed and seeded. He suggested a deadline of three years for this restoration.
2. He would like a date certain for no longer storing asphalt on site.
3. He would like a time frame for improving the visible areas of the site.

Mr. Dethier said that the DPW is working on the reclamation of the conservation land already (#1 above), that asphalt is only stored there on a temporary basis (#2), and that it would be more beneficial to plant screening along Pulpit Hill Road instead of installing a fence or landscaping around the buildings.

Mr. Dethier stated that this Special Permit application is part of the implementation of the Conway School of Design report. The Board requested a copy of that report, which Mr. Dethier supplied.

The Board stated that it is important to have fencing around the periphery of the buildings and to have motion lighting installed for security reasons. The Board asked for an estimate of the cost of installing fencing and screening in the north-west corner of the site, and for the applicants to develop a schedule of when the proposed changes would be complete.

Ms. Greenbaum made a motion to continue the hearing until April 19, 2006 at 7:30 p.m. Ms. Ford seconded the motion, and the vote was unanimous to continue the hearing to a date certain.

Continued Public Hearing – April 19, 2006

Jason Skeels and Paul Dethier of the DPW Engineering Department spoke to the application at the continued hearing. They submitted:

1. A map of the N-E corner of the site showing proposed evergreen screen, the proposed railway spur, a proposed 8-ft. high security fence along the front property line (Pulpit Hill Road) and the LSSE and Survival Center trailers tucked in behind the screening.
2. A reclamation timeline for the conservation area, the DPW areas and painting the existing buildings and trailers
3. A price list of screen plantings and fencing. The preliminary cost, not including labor or delivery charge, is around \$29,100.00.

Referring to the reclamation timeline (#2 above), the applicants said that the stump and concrete removal from the conservation area and the loam/re-seeding of the area should be completed this calendar year. For the DPW area, the timeline is the next six years for continued removal of all non-essential materials, invasive plants and concrete structures left over from the Ruxton gravel quarry period. The DPW also will be organizing their materials on site (loam, gravel, etc.) during the upcoming years. In terms of re-painting the existing buildings and trailers, the DPW estimated that this should be completed by 2008.

The applicants gave the following additional information:

- Eventually the DPW will re-grade the entire site. The original elevation of the land was much higher than now, comparable to that of the railroad tracks.
- Gravel had been dug out from the site 60-80 feet in some places, but will not be restored to this level. The reclamation will bring the land to the grade of the existing buildings.
- The Conway study in 1998 had been conducted prior to the DPW efforts at reclamation. The site is already much improved from that time.
- The pond near the buildings was mentioned as dangerous in the Conway report. It is only four feet deep now.
- Planting trees for screening and installing a fence around the north-east corner has no time line attached to it. It is too expensive to do at present, Mr. Skeels claimed.
- The Amherst Police want the existing gate to the site left open so they can patrol it on the weekends. There are chain link fences and barbed wire around the Town wells in South Amherst, and vandalism happens there as well, so fencing may not be effective.
- The DPW has been grinding up the concrete structures on site to use as fill on roadways.
- They wish to withdraw the salt shed and railroad spur plans from the current application.

Kris Pacunas, director of the Town Information Technology (IT) department, spoke about the Town's request, as part of this application, to co-locate antennas on the Verizon Wireless cell tower that will be built on the property. North Amherst has no other lines of communication, and a cell tower will be beneficial to the Town, Mr. Pacunas stated. Verizon Wireless received approval from the ZBA, Special Permit FY2006-00033, and will begin construction of the tower this year. If the Town is prepared, Verizon Wireless will install the Town's antennas on the top three sections of the tower, and store the Town's equipment in Verizon Wireless' building. He said that the electrical generating capacity from Verizon's backup generator is adequate for both Verizon and the Town's needs. Co-location on the cell tower will be a win-win situation for Amherst.

Mr. Pacunas said that the Town needs the 150-180 foot tower height for two types of communication:

1. Radio antennas are needed for public safety and public works departments. Town workers use both Verizon Wireless cell phones and Town radios, but it is difficult for them to communicate with one another in North Amherst at present. As the Town begins to use its own wireless equipment, wireless antennas installed at ideal locations such as Ruxton will enable the Town to phase out the use of Verizon cell phones, thus saving the Town money.
2. Data collection for the Town, which needs the 180-foot height for line-of-sight to other mounted wireless data equipment locations. Square plates (16" x 16", or 12" x 12") similar to Verizon plates will be installed; they will be used for GIS data, and eventually used for everything from parking tickets, Inspection Services reports in the field, to Town water and sewer systems.

The Board and the applicants discussed the trailers again. Mr. Skeels proposed that clustering both LSSE and Survival Center's trailers to the west of the entrance gate will minimize their impact. The Board agreed, particularly if they will be screened by pine trees. Mr. Skeels also said that they will withdraw the request for more storage trailers at present. Perhaps with proper screening, they will re-apply for additional trailers in the future.

Ms. Ford stated that she was concerned about leachate from the existing salt storage shed, that it could impinge on the water quality of Puffer's Pond. Mr. Skeels replied that the shed has a concrete floor, roof and sides, plus very little is ever spilled when trucking it, so this is not an issue.

Ms. Greenbaum stated that perhaps the Town's sewer enterprise fund could purchase the pines needed for screening. Mr. Skeels responded that even the enterprise funds are hurting financially at present. He did say that perhaps the DPW could transplant some "volunteer" pines from other locations for possible screening. Survival rates of such transplants are risky, however.

Ms. Ford stated that the Board's decision is not subject to the economics of the Town, but to apply the Zoning Bylaw, particularly Section 10.38, findings necessary for all Special Permit applications. The Town of Amherst is not exempt from the zoning process.

Ms. Greenbaum made a motion to close the evidentiary portion of the hearing. Ms. Ford seconded the motion, and the vote was unanimous.

Public Meeting:

The Board noted that the DPW activities at the site are necessary and important, particularly since the landfill is now closed and storage of materials is no longer possible there. The Board noted the improvements that have been made to the Ruxton area by the DPW.

The Board discussed the application in terms of the conditions that should be imposed on the Special Permit, if approved. Priorities that the Board outlined are: 1) Reclamation activities, including preparing the site for future Town uses, 2) Improving security by fencing, security cameras, and/or signage, and 3) Eliminating visually offensive structures by painting, regrouping and screening.

Ms. Greenbaum moved to accept the petitioner's request to withdraw without prejudice the railroad spur, the enlarged salt shed and additional storage trailers from the application. Ms. Ford seconded the motion, and the vote was unanimous.

Public Meeting - findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 – The proposal is suitably located, in that the site is situated in a remote area of Amherst. The DPW activities and cell tower co-location are needed by the entire Town of Amherst, and the site was deemed to be appropriate for these activities earlier by the Town Meeting and the Select Board.

10.382 & 10.385 – The proposal would not constitute a nuisance due to noise, odor, lights or visually offensive structures, because the conditions of this permit require that the buildings and trailers be screened. Noise of machinery will occur during normal business hours, and lighting will be downcast. The reclamation of the area has already made the site less visually offensive.

10.383 & 10.387 – The proposal will not be an inconvenience or hazard to abutters, vehicles or pedestrians, because the site is very large, the neighborhood is rural, there is little traffic, and there is much paved space within the site for vehicles.

10.384, 10.386 & 10.388 – Adequate and appropriate facilities will be provided for the proper operation of the uses proposed at the site, since the DPW is already in the process of upgrading the site, the cell tower was approved in an independent Special Permit, FY2006-00033, and the conditions of this permit will ensure that the site will not be over-used. Parking is ample on site, and loading/unloading of materials will be done on site as well.

10.389 – The site is not near Town water or sewer lines. Plans for reconstruction of the scale house will be brought to the Board at a business meeting, one of the conditions of this permit.

10.391 – The proposal protects, to the extent feasible, important scenic features in that the

reclamation of the site is underway, and the abutting Puffer's Pond will not be affected by use on this site.

10.394 – The proposal avoids impact on steep slopes and wetlands because the work being conducted on the site is not near the two wetland areas or the steeper slopes at the southern and western borders of the property.

10.396 – The proposal provides screening for storage areas, utility buildings and similar features because the conditions of this permit include screening for the buildings and trailers currently located in the north-east corner of the site.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw, because the storage and wireless co-location uses proposed by the DPW are necessary for the provision of infrastructure upkeep and other services for the Town. The reclamation efforts of the old gravel quarry by the DPW have already promoted the safety and general welfare of Amherst's citizens, and the continuation of this activity will enable the land to be used for other purposes in the future if needed.

Public Meeting - Zoning Board Decision:

Ms. Greenbaum made a motion to APPROVE a Special Permit to the Town of Amherst Sewer Commission, administered by the DPW, subject to conditions. Mr. Simpson seconded the motion.

For all of the reasons stated above, the Board VOTED UNANIMOUSLY to grant a Special Permit to the Town of Amherst under Sections 3.340.2, 3.373, 3.374 and 3.344 of the Zoning Bylaw to 1) install cellular and PCS antennas on a 180 foot tall wireless communications tower and store equipment in a Verizon Wireless accessory equipment shelter at the base of the tower, 2) to continue existing uses of removing soil, gravel and other earth products; processing earth products; and storage of stumps, construction debris and materials, gravel, salt, DPW equipment, Town records, and LSSE/Survival Center trailers, and 3) the renovation of the existing scale house for employee use, as requested in the application filed by the Department of Public Works for the Sewer Commission, on the premises at 511 Pulpit Hill Road, (Map 5B/Parcel 33, R-O Zoning District), with conditions.

TOM SIMPSON

BARBARA FORD

HILDA GREENBAUM

FILED THIS _____ day of _____, 2006 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2006.
NOTICE OF DECISION mailed this _____ day of _____, 2006
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2006,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to the Town of Amherst under Sections 3.340.2, 3.373, 3.374 and 3.344 of the Zoning Bylaw to 1) install cellular and PCS antennas on a 180 foot tall wireless communications tower and store equipment in a Verizon Wireless accessory equipment shelter at the base of the tower, 2) to continue existing uses of removing soil, gravel and other earth products; processing earth products; and storage of stumps, construction debris and materials, gravel salt, DPW equipment, Town records, and LSSE/Survival Center trailers, and 3) the renovation of the existing scale house for employee use, as requested in the application filed by the Department of Public Works for the Sewer Commission, on the premises at 511 Pulpit Hill Road, (Map 5B/Parcel 33, R-O Zoning District). The permit is granted with the following conditions:

1. The materials stored on site (loam, stumps, concrete, etc) shall kept in discrete areas as shown on the plan drawn by the DPW, dated February, 2006 and approved by the Board at a public meeting April 19, 2006.
2. Storage of asphalt, concrete and stumps shall be short-term, until a volume necessary for commercial processing is achieved and they can be removed from the site.
3. The reclamation activities shall bring the land to a grade consistent with that of the existing buildings on site.
4. The three DPW buildings shall be painted.
5. The area designated for the LSSE and Survival Center trailers shall be stored on pavement to the west of the entrance, as shown of the plan approved by the Board (condition #1).The trailers shall be painted, grouped together in one area and screened to ensure that they will be less intrusive. No more than 9 trailers shall be stored on site.
6. Plans for the reconstruction of the scale house shall be reviewed and approved by the Board at a public meeting within one year of filing this permit.
7. Adequate security measures shall be installed for the buildings and trailers. Such measures shall include some or all of the following: fencing around the existing buildings and storage trailers, security cameras, motion sensor lighting, alarms and/or "No Trespassing" signs. Proposed security measures shall be submitted to the Board for review and approval at a public meeting.
8. Lighting shall be down-cast.
9. Screening along Pulpit Hill Road on either side of the entrance shall be added over the next three years as shown on the plan dated April, 2006.
10. Modification of this permit is necessary prior to the introduction of any new uses on this parcel.
11. The hours of operation for the Dept. Public Works (DPW) staff shall be 7 am to 3 pm, six days a week, except for emergencies.

12. The Town shall take all reasonable steps to develop and operate the site in a manner which minimizes negative visual impact.

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13. The upper end of the existing sluiceway at the western edge of the site shall be blocked to ensure that runoff of sediment or hazardous materials do not make its way into adjacent water resources.
14. This permit shall expire within five (5) years.

TOM SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE